



Chemical Identification & Prioritization White Paper

April 2011

The mandate of AB 1879 is to identify those chemicals present in consumer products which may pose a threat to human health and the environment and thus warrant additional regulation. The Legislature concluded that a meaningful prioritization was necessary to achieve this objective to "address the worst first".

The first step of the regulation implementing AB1879/SB509 must be to identify and prioritize chemicals of concern in consumer products. Consistent with the statute, however, GCA is firm in its belief that the prioritization and evaluation process must be based on **exposure** as well as hazard, and it must avoid duplication and conflicting regulatory requirements.

GCA anticipates the DTSC is intent on crafting a manageable process beginning with chemicals which exhibit the greatest hazards. In this regard, GCA expects DTSC will begin with substances known or presumed to cause cancer or developmental or reproductive harm (CMR) as provided for under Proposition 65 and substances known to be persistent, bioaccumulative and toxic (PBT) in the environment as designated by US EPA. These chemicals would be identified as "chemicals for consideration," subject to further review and study based on the severity of the risks associated with the chemical. At this stage DTSC would be able to request information regarding such chemicals and make its determination relative to elevating some of these chemicals to the category of "chemicals of concern." In making its determination, DTSC will evaluate the potential exposure to the chemical, its volume in commerce within California, its potential effects on sensitive subpopulations, and its potential for adverse impacts on the environment. GCA supports this two step approach, i.e., "chemicals of consideration" and "chemicals of concern."

The prioritization process should focus on evaluations of consumer exposure, especially for products containing chemicals of concern targeted toward sensitive populations rather than solely on the properties of each and every individual chemical in the consumer product, since exposure and risk vary depending on the product, and on how and by whom that product is used.

In order to foster transparency and encourage public input, GCA supports public comment and appeal opportunities relative to a chemical being considered for designation as a "chemical of concern" prior to being officially listed as such.

GCA is firm in its insistence that exposure is an upfront consideration in the prioritization process such that an exemption must be provided if there is no "reasonable and foreseeable" exposure pathway, consistent with provisions under Proposition 65.

Chemical Data Issues / Resources

There has been much discussion among stakeholders regarding the need for DTSC to require manufacturers and others to fill a perceived "data gap" of chemical health and safety information.

Some have even alleged that little is known about chemicals in commerce yet such broad, sweeping claims about the lack of publicly available information on chemicals are inaccurate.

GCA urges DTSC to ensure that the Safer Alternatives regulations anticipate and fully leverage the wealth of quality information on chemicals in commerce from government agencies and inter-governmental bodies around the world as AB 1879 specifically requires. These resources capture information including, but not limited to, physical properties, human and environmental toxicology, and national / regional hazard classifications according to the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

The claim that DTSC cannot proceed with prioritization under AB 1879 until it has complete and comprehensive information on every chemical in commerce is unrealistic, contradicts the spirit of the statute, and will lead to paralysis. GCA offers the following:

1. Such claims ignore the fact numerous national and state chemical programs have prioritized tens of thousands of chemicals based on existing information and/or by creating opportunities for government and industry to share information and talk about safety in specific uses.
2. There is more than enough information for DTSC to proceed with prioritization (especially on a subset of chemicals like PBTs or CMRs) and to identify targeted data needs that may emerge during that process.
3. The tremendous amount of information available through REACH will provide a significant resource for DTSC beginning with over 4400 high production volume and high hazard chemicals which were to have been submitted in November 2010
4. Any effort that forces DTSC to administer and manage a massive, unfocused data gathering exercise will detract from the implementation of AB 1879 and the Green Chemistry Initiative more broadly.
5. DTSC should establish a process that allows industry to respond to *specific* data needs that emerge after prioritization based on available data.

DTSC must ensure that it fully appreciates the difference between a chemical “data gap” and a “data need.” Data gaps are any pieces of information on a chemical that are unavailable. The list of potential “data gaps” is potentially endless, thereby making “data gaps” an impractical basis for a conversation on prioritizing and characterizing chemicals in a priority consumer product. On the other hand the important subset of “data gaps” required to characterize potential risks associated with a chemical in a consumer product are referred to as “data needs”. “Data needs” are targeted and specific and often linked to how a chemical is used and the associated potential exposures (i.e., a closed system intermediate versus a substance in a children's product).

Sound scientific priority setting and decision-making does not hinge upon a rigid check-the-box approach that would result in enormous amounts of unnecessary animal testing and further burden public and private resources with the obligation to generate, review, and interpret data that are not needed. GCA urges DTSC to ensure that the regulations are crafted in a manner that utilizes both public and private resources as efficiently and effectively as possible.

***For additional information, please contact GCA's co-chairs
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